THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 12403 of 2006

DATED:22-06-2006

BETWEEN:

Rapaka Kotaiah and two others

.. Petitioners

And

The District Collector,
West Godavari District and others

.. Respondents

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 12403 of 2006

ORDER:

This writ petition is filed for a mere apprehension at the present.

Each of the petitioners claim to be owners of the lands specified in the writ petition (Para 3). The petitioners allege that the respondents did not issue any draft notification under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act') nor was an enquiry under Section 5-A of the Act held. According to the petitioners, initially the respondents wanted to acquire the lands of the fourth respondent, who is the husband of the village sarpanch; the fourth respondent is instigating the other respondents to acquire the petitioners' lands instead of the fourth respondent lands and that though the respondents initially selected the lands of the fourth respondent for acquisition, they gave up the same and are now out to acquire the lands of the petitioners. The petitioners assert that they would suffer irreparable prejudice and loss, if they are dispossessed without the due process of law and on account of the malafide intentions of the respondents 1 to 3, at the instance of the fourth respondent, who is the husband of the village sarpanch.

As per the writ petition, nothing is pleaded as to any action taken by the respondents to acquire the petitioners' lands after dispossessing them otherwise than by the due process of law. If the respondents 1 to 3 or any one of them or any other person in public office attempts to dispossess the petitioners from their lands forcibly and in violation of the due process of law, the petitioners have the right to complain to the nearest Police Station naming the person or persons who seek to dispossess them forcibly. On such a complaint being made, the concerned Police Station will be obligated to register the complaint, investigate into the matter and employ the coercive process of the State to restrain such illegal dispossession of the petitioners of their lands and also to take appropriate proceedings against such person, even if such person is in public office. The petitioners also have a right of private defence, which could be employed. In addition, the petitioners can move the nearest Civil Court of competent jurisdiction to seek injunctive relief from dispossession, save in accordance with law. As a plurality of remedies are available nearer to the petitioners, in West Godavari District itself, in the considered view of this Court, no case is made out for intervention under Article 226 of the Constitution.

The writ petition is disposed of at the stage of admission leaving the petitioners to pursue appropriate remedies, in case they are sought to be dispossessed from their lands illegally. No costs.

GODA RAGHURAM,J

Dated: 22-06-2006
kvrm